

# EXHIBIT 5

**From:** [Rupert, Jeffrey \(ATG\)](#)  
**To:** [Sprung, Jeff \(ATG\)](#); [Beneski, Kristin \(ATG\)](#); [Jones, Zach \(ATG\)](#); [Williams, Jennah \(ATG\)](#)  
**Subject:** FW: Commonwealth v. Defense Distributed  
**Date:** Monday, August 27, 2018 8:09:07 AM

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**From:** Chad Flores <[Cflores@beckredden.com](mailto:Cflores@beckredden.com)>  
**Sent:** Monday, August 27, 2018 7:28 AM  
**To:** Goldman, Jonathan Scott <[jgoldman@attorneygeneral.gov](mailto:jgoldman@attorneygeneral.gov)>  
**Cc:** 'Miller, Jonathan (AGO)' <[jonathan.miller@state.ma.us](mailto:jonathan.miller@state.ma.us)>; Rupert, Jeffrey (ATG) <[JeffreyR2@ATG.WA.GOV](mailto:JeffreyR2@ATG.WA.GOV)>; Romano, Karen M. <[kromano@attorneygeneral.gov](mailto:kromano@attorneygeneral.gov)>; Bowers, Todd (ATG) <[ToddB@ATG.WA.GOV](mailto:ToddB@ATG.WA.GOV)>; Andrew Bruck <[Andrew.Bruck@njoag.gov](mailto:Andrew.Bruck@njoag.gov)>; 'Jeremy Feigenbaum' <[Jeremy.Feigenbaum@njoag.gov](mailto:Jeremy.Feigenbaum@njoag.gov)>; Donahue, III, James A. <[jdonahue@attorneygeneral.gov](mailto:jdonahue@attorneygeneral.gov)>; DeLone, J. Bart. <[jdalone@attorneygeneral.gov](mailto:jdalone@attorneygeneral.gov)>; Kovatis, Stephen R. <[skovatis@attorneygeneral.gov](mailto:skovatis@attorneygeneral.gov)>; Sulcove, Lauren E. <[lsulcove@attorneygeneral.gov](mailto:lsulcove@attorneygeneral.gov)>; 'Doug Gould' <[dgould@pmrbm.com](mailto:dgould@pmrbm.com)>  
**Subject:** Re: Commonwealth v. Defense Distributed

Jonathan,

At your earliest convenience, please study the video again. It's been changed to omit the expressions that may have been your cause for concern. Naturally, the change does not entail any admission of wrongdoing. In light of the busy days ahead and unless you say otherwise, I'll assume that this moots the need to pursue a completely detailed discussion of this matter.

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**From:** Chad Flores <[Cflores@beckredden.com](mailto:Cflores@beckredden.com)>  
**Date:** Saturday, August 25, 2018 at 6:26 AM  
**To:** "Goldman, Jonathan Scott" <[jgoldman@attorneygeneral.gov](mailto:jgoldman@attorneygeneral.gov)>  
**Cc:** "Miller, Jonathan (AGO)" <[jonathan.miller@state.ma.us](mailto:jonathan.miller@state.ma.us)>, "Rupert, Jeffrey (ATG)" <[JeffreyR2@ATG.WA.GOV](mailto:JeffreyR2@ATG.WA.GOV)>, "Romano, Karen M." <[kromano@attorneygeneral.gov](mailto:kromano@attorneygeneral.gov)>, "Bowers, Todd (ATG)" <[ToddB@ATG.WA.GOV](mailto:ToddB@ATG.WA.GOV)>, Andrew Bruck <[Andrew.Bruck@njoag.gov](mailto:Andrew.Bruck@njoag.gov)>, 'Jeremy Feigenbaum' <[Jeremy.Feigenbaum@njoag.gov](mailto:Jeremy.Feigenbaum@njoag.gov)>, "Donahue, III, James A." <[jdonahue@attorneygeneral.gov](mailto:jdonahue@attorneygeneral.gov)>, "DeLone, J. Bart." <[jdalone@attorneygeneral.gov](mailto:jdalone@attorneygeneral.gov)>, "Kovatis, Stephen R." <[skovatis@attorneygeneral.gov](mailto:skovatis@attorneygeneral.gov)>, "Sulcove, Lauren E." <[lsulcove@attorneygeneral.gov](mailto:lsulcove@attorneygeneral.gov)>, Doug Gould <[dgould@pmrbm.com](mailto:dgould@pmrbm.com)>  
**Subject:** Re: Commonwealth v. Defense Distributed

Jonathan,

I've received your e-mail and am studying the matter with all due haste. Rest assured that I'll

respond with a full report just as soon as I have one. If you could forward me the transcript you're citing, I'd appreciate that.

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**From:** "Goldman, Jonathan Scott" <[jgoldman@attorneygeneral.gov](mailto:jgoldman@attorneygeneral.gov)>  
**Date:** Friday, August 24, 2018 at 4:35 PM  
**To:** Doug Gould <[dgould@pmrbm.com](mailto:dgould@pmrbm.com)>, Chad Flores <[Cflores@beckredden.com](mailto:Cflores@beckredden.com)>  
**Cc:** "Miller, Jonathan (AGO)" <[jonathan.miller@state.ma.us](mailto:jonathan.miller@state.ma.us)>, "Rupert, Jeffrey (ATG)" <[JeffreyR2@ATG.WA.GOV](mailto:JeffreyR2@ATG.WA.GOV)>, "Romano, Karen M." <[kromano@attorneygeneral.gov](mailto:kromano@attorneygeneral.gov)>, "Bowers, Todd (ATG)" <[ToddB@ATG.WA.GOV](mailto:ToddB@ATG.WA.GOV)>, Andrew Bruck <[Andrew.Bruck@njoag.gov](mailto:Andrew.Bruck@njoag.gov)>, 'Jeremy Feigenbaum' <[Jeremy.Feigenbaum@njoag.gov](mailto:Jeremy.Feigenbaum@njoag.gov)>, "Donahue, III, James A." <[jdonahue@attorneygeneral.gov](mailto:jdonahue@attorneygeneral.gov)>, "DeLone, J. Bart." <[jdelone@attorneygeneral.gov](mailto:jdelone@attorneygeneral.gov)>, "Kovatis, Stephen R." <[skovatis@attorneygeneral.gov](mailto:skovatis@attorneygeneral.gov)>, "Sulcove, Lauren E." <[lsulcove@attorneygeneral.gov](mailto:lsulcove@attorneygeneral.gov)>  
**Subject:** RE: Commonwealth v. Defense Distributed  
**Resent-From:** Proofpoint Essentials <[do-not-reply@proofpointessentials.com](mailto:do-not-reply@proofpointessentials.com)>  
**Resent-To:** <[cflores@beckredden.com](mailto:cflores@beckredden.com)>  
**Resent-Date:** Friday, August 24, 2018 at 4:29 PM

Assume you saw that we filed the Joint Report, Chad and Doug. But I write about a more urgent issue.

We just became aware that Defense Distributed sent an email to its listserv this morning containing a link to a video (<https://youtu.be/5BqIXlkSoA>). In that video, Defense Distributed asks others to host its 3D gun files because courts have prevented it from doing so, itself. I assume, as counsel, you were and are unaware of this. Now you are. We respectfully request that you advise your clients to promptly take down the video and cease any and all efforts to have others host these files.

It is my understanding that, broadly speaking, your clients have made representations to the courts in which legal matters are pending that they would no longer make these files available (in PA and NJ) and that the nationwide injunction prevents them from making such files available anywhere nationwide. Actively soliciting others to host the same files plainly violates these promises and representations.

For example, in Pennsylvania, Defense Distributed represented to the Court that it "block[ed] all challenged information from being accessed in Pennsylvania." Doc 20, attached. During the hearing, counsel texted Mr. Wilson, who agreed to implement the agreed-to remedy that night:

THE COURT: And in the mean time, Mr. Blackman, your client is

going to keep this stuff, as you've described, off the internet, as far as Pennsylvania is concerned. Is that right?

MR. BLACKMAN: Yes. I actually texted my client while I was on the phone with you, Judge. He replied back, and we'll do it right away. So, as soon as they can do it, it's going to be done tonight.

Tr. 11: 11-22 (Doc. No. 17).

That conversation culminated, on the transcript, as follows:

THE COURT: ...And Mr. Blackman, your client agrees to continue to keep this stuff off the internet in Pennsylvania, and not post new stuff, until we have -- until we hold a motion -- until we hold a hearing for a preliminary injunction, and until I rule on it. Is that right?

MR. BLACKMAN: Yes, Your Honor, absolutely.

Tr. 17: 6-11 (Doc. No. 17).

Later, Doug, as counsel to Defendants, you represented to the PA Court that the Nationwide TRO Order in the WA Court "has the legal effect of a takedown order" in PA (and beyond). Doc 21 (attached).

In light of these representations, we hope you will agree that your clients' efforts to have others post the 3D guns that they promised were taken down and would no longer be made available in PA, NJ or nationally are improper and should cease immediately.

Kindly confirm as soon as possible that your clients will immediately take down the video from YouTube and cease any and all efforts to have others host these files.

Should you and/or your clients have any other position on this issue, please advise promptly.

Thanks and have a good weekend,

Jonathan

**Jonathan Scott Goldman**

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**From:** Goldman, Jonathan Scott

**Sent:** Friday, August 24, 2018 2:53 PM

**To:** 'Doug Gould' <[dgould@pmrbm.com](mailto:dgould@pmrbm.com)>; Chad Flores <[Cflores@beckredde.com](mailto:Cflores@beckredde.com)>

**Cc:** DeLone, J. Bart. <[jdelone@attorneygeneral.gov](mailto:jdelone@attorneygeneral.gov)>; Donahue, III, James A.

<[jdonahue@attorneygeneral.gov](mailto:jdonahue@attorneygeneral.gov)>; Kovatis, Stephen R. <[skovatis@attorneygeneral.gov](mailto:skovatis@attorneygeneral.gov)>; Romano,

Karen M. <[kromano@attorneygeneral.gov](mailto:kromano@attorneygeneral.gov)>; Sulcove, Lauren E. <[lsulcove@attorneygeneral.gov](mailto:lsulcove@attorneygeneral.gov)>

**Subject:** RE: Commonwealth v. Defense Distributed

This works, Doug and Chad. We'll sign for you and file today.

Thanks and have a great weekend,

Jonathan

**Jonathan Scott Goldman**

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**From:** Doug Gould [<mailto:dgould@pmrbm.com>]

**Sent:** Friday, August 24, 2018 11:32 AM

**To:** Chad Flores <[Cflores@beckredde.com](mailto:Cflores@beckredde.com)>

**Cc:** Goldman, Jonathan Scott <[jgoldman@attorneygeneral.gov](mailto:jgoldman@attorneygeneral.gov)>; DeLone, J. Bart.

<[jdelone@attorneygeneral.gov](mailto:jdelone@attorneygeneral.gov)>; Donahue, III, James A. <[jdonahue@attorneygeneral.gov](mailto:jdonahue@attorneygeneral.gov)>; Kovatis,

Stephen R. <[skovatis@attorneygeneral.gov](mailto:skovatis@attorneygeneral.gov)>; Romano, Karen M. <[kromano@attorneygeneral.gov](mailto:kromano@attorneygeneral.gov)>;

Sulcove, Lauren E. <[lsulcove@attorneygeneral.gov](mailto:lsulcove@attorneygeneral.gov)>

**Subject:** Re: Commonwealth v. Defense Distributed

Jonathan-

Please find attached our draft joint report for filing today. It is vetted on this side, I authorize you to sign my signature for filing unless you have proposed changes.

On Aug 24, 2018, at 11:18 AM, Chad Flores <[Cflores@beckredde.com](mailto:Cflores@beckredde.com)> wrote:

Jonathan,

Thanks for the quick reply. I'll be the lead counsel in PA, and am aiming to make an appearance official in the next few days. But of course, please do continue to include both Doug and me in talks to ensure a smooth line of communication.

If the federal district court in Washington continues the TRO as a preliminary injunction, you're right to understand that Doug's August 2 letter represents our position about its effect. And of course, if that court does something materially different, we'll be at your disposal to clarify anything in need of attention.

We'll be glad to send over a proposed status report to file today. Perhaps since we'll be drawing it up, y'all can do the job of filing it.

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**From:** "Goldman, Jonathan Scott" <[jgoldman@attorneygeneral.gov](mailto:jgoldman@attorneygeneral.gov)>  
**Date:** Friday, August 24, 2018 at 10:09 AM  
**To:** Doug Gould <[dgould@pmrbm.com](mailto:dgould@pmrbm.com)>, Chad Flores <[Cflores@beckredde.com](mailto:Cflores@beckredde.com)>  
**Cc:** "DeLone, J. Bart." <[jdelone@attorneygeneral.gov](mailto:jdelone@attorneygeneral.gov)>, "Donahue, III, James A." <[jdonahue@attorneygeneral.gov](mailto:jdonahue@attorneygeneral.gov)>, "Goldman, Jonathan Scott" <[jgoldman@attorneygeneral.gov](mailto:jgoldman@attorneygeneral.gov)>, "Kovatis, Stephen R." <[skovatis@attorneygeneral.gov](mailto:skovatis@attorneygeneral.gov)>, "Romano, Karen M." <[kromano@attorneygeneral.gov](mailto:kromano@attorneygeneral.gov)>, "Sulcove, Lauren E." <[lsulcove@attorneygeneral.gov](mailto:lsulcove@attorneygeneral.gov)>  
**Subject:** RE: Commonwealth v. Defense Distributed  
**Resent-From:** Proofpoint Essentials <[do-not-reply@proofpointessentials.com](mailto:do-not-reply@proofpointessentials.com)>  
**Resent-To:** <[cflores@beckredde.com](mailto:cflores@beckredde.com)>  
**Resent-Date:** Friday, August 24, 2018 at 10:01 AM

I was thinking about that this morning, Doug. The actual Order (attached) directed us to file a joint report "at the conclusion of the Western District of Washington's preliminary injunction hearing." That was Wednesday. Though we are waiting for the WA Court's expected Order on Monday, we should probably file a short status report in the interim. Would you be able to draft something?

Separately, I am out of the office on vacation next week and (unless truly necessary) will be unavailable. I am assuming that, if WA continues the TRO as a PI, your client will take the same position in this matter as you articulated before, that the WA Order "has the legal effect of a takedown order" in Pennsylvania and, presumably, nationally. See

attached. If that is not the case, please advise. Of course, if WA removes the TRO and denies the PI, we may have to plot a different course.

Last, in terms of lead counsel in the PA matter, will that be you, Chad? Are you planning to enter your appearance or will someone else be planning to do so? If no lead counsel has been identified, Doug, are you prepared to move forward before the PA Court on your own?

Thanks so much,

Jonathan

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**From:** Doug Gould [<mailto:dgould@pmrbm.com>]

**Sent:** Friday, August 24, 2018 10:43 AM

**To:** Goldman, Jonathan Scott <[jgoldman@attorneygeneral.gov](mailto:jgoldman@attorneygeneral.gov)>; Chad Flores <[Cflores@beckredde.com](mailto:Cflores@beckredde.com)>

**Subject:** Commonwealth v. Defense Distributed

Dear Jonathan-

I am sure you have been tracking the Seattle PI hearing. It is my understanding the Seattle Court will be ruling on the PI next Monday. I wanted to have our ducks in a row for the joint report when the order arrives.

I will be traveling on Monday morning. Best bet will be to reach me on my cell (610) 209-3042 next week as I will not be in the office. I also have a protracted hearing on Wednesday morning in the event any telephone conferences need to be scheduled for that day. I would suspect being free after 2 p.m.

In the event of any issues while I am not available, I have copied Chad Flores on this email. Chad is Defense Distributed's lead counsel in Seattle. He can handle any issues in a pinch.

I have attached a draft of the joint report, please let me know if you think any changes are necessary.

Very truly yours,

Douglas T. Gould, Esq.

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----- ATTORNEYS AT LAW-----

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Very truly yours,

Douglas T. Gould, Esq.

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